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ACTION
DIST. LTR. ENC.

BENJAMIN, A.	
BERMAN, H.S.	
BRADY, J.A.	
BRANCH, D.B.	
CARNIVAL, G.J.	
COPP, R.D.	
CORDOVA, R.C.	
DAVIS, J.G.	
EVERED, J.E.	
FERRERA, D.W.	
GOODWIN, R.	
HANNI, B.J.	
HEALY, T.J.	
HILBIG, J.G.	
IDEKER, E.H.	
KERSH, J.M.	XX
KIRBY, W.A.	
KRIEG, D.	
KUESTER, A.W.	
LEE, E.M.	XX
MARX, G.E.	
MORGAN, R.V.	XX
PIZZUTO, V.M.	
POTTER, G.L.	
SANDLIN, N.B.	
SATTERWHITE, D.G.	
SCHUBERT, A.L.	XX
SHEPLER, R.L.	
SULLIVAN, M.T.	
SWANSON, E.R.	
TAMMAN, K.G.	
WILSON, R.B.	XX
WILSON, J.M.	
ZANE, J.O.	XX

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DATE BY

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EALTH- PATRICIA A. NOLAN, MD, MPH
Executive DirectorHazardous Materials and Waste Management Division
4210 East 11th Avenue
Denver, Colorado 80220-3716
(303) 331-4830 / FAX (303) 331-4401

July 13, 1992

Mr. Martin Hestmark
U.S. Environmental Protection Agency
Region VIII
999 18th Street, Suite 500, 8WM-C
Denver, Colorado 80202-2405Mr. Frazer Lockhart
U. S. Department of Energy
Rocky Flats Plant
Building 116
P. O. Box 928
Golden, Colorado 80402

000005736

RE: Resolution of OU-8 Draft Phase I RFI/RI Workplan Dispute

Gentlemen:

Attached is a copy of the "Decision of the Project Coordinators" as signed on July 7, 1992. This agreement resolves the subject dispute invoked by DOE on June 5, 1992. We will retain the original in our central files.

The Colorado Department of Health, Hazardous Materials and Waste Management Division (the Division) is presently preparing a letter which will inform DOE and EG&G of the means by which the Division's NOV 92-05-22-01 may be resolved.

If you have any questions concerning this matter please contact Harlen Ainscough of my staff at 331-4977.

Sincerely,

Gary W. Baughman
Unit Leader, Hazardous Waste Facilities
Hazardous Materials and Waste Management Division

Attachment

cc: Daniel S. Miller, AGO
J. Hernandez Berardini, CDH-OE
Terry A. Vaeth, DOE
J. O. Zane, EG&G

ADMIN RECORD

OU-8 Draft Phase I RFI/RI Workplan Dispute

Decision of the Project Coordinators

All parties agree that this document resolves the subject dispute as invoked by DOE on June 5, 1992 concerning the appropriateness of the State issuing a Notice-of-Violation pertaining to DOE's internal procurement processes. Therefore, the undersigned Project Coordinators agree, on behalf of their respective parties, that:

- . The Interagency Agreement (IAG) grants the State of Colorado the authority under Paragraphs 239 and 102 to issue a Notice of Violation for violations of the IAG; the action taken in regard to OU-8 was within the scope of this authority.
- . DOE and its contractors are attempting to make progress in improving the acquisition system under the Federal Acquisition Regulations (FAR 2.101, Definitions) and procedures for Environmental Restoration (ER) work. However, the present acquisition process continues to hinder implementation of cleanup efforts at Rocky Flats and thus, requires further attention. Use of the streamlined Master Task Subcontracts will begin in July and August 1992; nevertheless, other opportunities for improvement of the acquisition system exist. This includes use of detailed acquisition planning and contract structuring which can allow subcontractors to perform all phases of ER work within an operable unit. DOE will continue to address streamlining of the acquisition planning and contracting mechanisms and will routinely inform EPA and CDH of progress towards ensuring that acquisition planning supports the IAG.
- . The Organizational Conflict of Interest (OCI) issue is a fundamental concern which is still unresolved. All parties acknowledge that as project scopes are defined by DOE and final approvals are given by EPA/CDH, contractors cannot pad worksopes. Consequently, all parties agree that DOE should aggressively pursue detailed acquisition planning to provide for optimum support of IAG commitments. Such planning will require further training of DOE and Contractor staff, and management emphasis to ensure that dialogue between acquisition support and ER staff is productive.

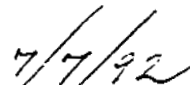
Progress on the acquisition planning issue will be reported at the Monthly managers meeting; resolution is expected within 90 days.

- . Other Federal agencies (i.e. EPA, DOD, etc.) may have interpreted OCI under FAR in a less stringent manner. DOE, notwithstanding possible implications, is committed to making the acquisition process support the ER program and IAG, consistent with DOE interpretations of the FAR.

- DOE can improve the timeliness and amount of information provided to CDH/EPA concerning the acquisition problems as they occur, and progress towards resolving problems. DOE will propose, and all parties will agree on a more reliable mechanism to provide updated status, possibly through formal correspondence or the monthly IAG status report. DOE commits to the use of a mechanism as agreed upon by all parties. A mechanism will be proposed at the July 7, 1992 Manager's meeting.



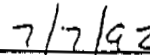
Colorado Department of Health
Gary W. Baughman



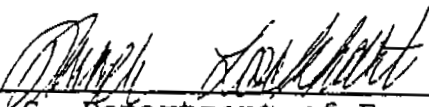
Date



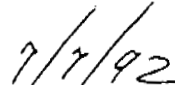
U. S. Environmental Protection Agency
Martin Hestmark



Date



U.S. Department of Energy
Frazer Lockhart



Date